



DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

"MARKER FOR USE IN A MAGNETIC ANTI-THEFT SECURITY SYSTEM"

Case No. P99,0339-02, U.S. Serial No. 10/672,218, filed September 26, 2003, and which is a continuation-in-part of my or our application, U.S. Serial No. 10/371,894, filed February 21, 2003, which was a continuation of U.S. Serial No. 09/269,490, filed June 8, 1999, which was a National Stage Application under 37 CFR 371 of PCT/DE98/01984, filed July 15, 1998 and claimed priority from German 197 32 872, filed July 30, 1997.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent Office all information which is known to me to be material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, 1.56. I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below

| Prior Foreign Application(s) Number | Country | Date |
|--|---------------|---------------|
| 197 32 872.5 | Germany | July 30, 1997 |
| PCT/DE98/01984 | International | July 15, 1998 |

and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the above listed application on which priority is claimed:

| Prior Foreign Application(s) Number | Country | Date |
|--|---------|------|
|--|---------|------|

If no priority is claimed, I have identified all foreign patent applications filed prior to this application:

| Prior Foreign Application(s) Number | Country | Date |
|--|---------|------|
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(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States Application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

**U.S. Serial No. 10/371,894 , filed February 21, 2003 and
U.S. Serial No. 09/269,490, filed June 8, 1999.**

And I hereby appoint all Attorneys identified by United States Patent & Trademark Customer Number **26574**, who are all members of the Firm Schiff Hardin & Waite, my attorneys, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and direct that all correspondence be forwarded to:

SCHIFF HARDIN & WAITE
Patent Department
6600 Sears Tower
Chicago, Illinois 60606-6473
CUSTOMER NUMBER 26574

Direct Telephone Number for James D. Hobart: (312) 258-5781

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor: **HARTWIN WEBER**

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OTTMAR ROTH

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